

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Felipe Gabriel Samaniego-Lugo,)	No. CV 11-0623-TUC-RCC (BPV)
Petitioner,)	ORDER
vs.)	
Charles L. Ryan, et al.,)	
Respondents.)	

Pending before the Court is Petitioner Felipe Gabriel Samaniego-Lugo's Petition for Writ of Habeas Corpus (Doc. 1) and Magistrate Judge Bernardo P. Velasco's Report and Recommendation (R&R) (Doc. 17). The Court accepts and adopts Magistrate Judge Velasco's R & R (Doc. 17) as the findings of fact and conclusions of law of this Court and denies Petitioner's Petition for Writ of Habeas Corpus (Doc. 1).

I. Background

The state level factual and procedural background in this case is thoroughly detailed in the "Factual and Procedural Background" portion of Magistrate Judge Velasco's R & R (Doc. 17). This Court fully incorporates by reference the "Factual and Procedural Background" section of the R & R into this Order.

On September 22, 2011, Petitioner filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1). Respondents filed an Answer on March 29, 2012

(Doc. 14). On November 16, 2012 Magistrate Judge Velasco issued a R&R recommending that this Court dismiss the action in its entirety as untimely. (Doc. 17). Petitioner did not file any objections to the R&R.

II. Discussion

The duties of the district court in connection with a R & R are set forth in Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may “accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” FED.R.CIV.P. 72(b)(3); 28 U.S.C. § 636(b)(1).

Where the parties object to a R & R, “[a] judge of the [district] court shall make a *de novo* determination of those portions of the [R & R] to which objection is made.” 28 U.S.C. § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). When no objection is filed, the district court need not review the R & R *de novo*. *Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th Cir.2003) (en banc). Therefore, to the extent that no objection has been made, arguments to the contrary have been waived. *McCall v. Andrus*, 628 F.2d 1185, 1187 (9th Cir.1980) (failure to object to Magistrate's report waives right to do so on appeal); *see also*, Advisory Committee Notes to Fed.R.Civ.P. 72 (citing *Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir.1974) (when no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation).

The Court will not disturb a Magistrate Judge's Order unless his factual findings are clearly erroneous or his legal conclusions are contrary to law. 28 U.S.C. § 636(b)(1)(A). “[T]he magistrate judge's decision ... is entitled to great deference by the district court.” *United States v. Abonce-Barrera*, 257 F.3d 959, 969 (9th Cir.2001). A failure to raise an objection waives all objections to the Magistrate Judge's findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a Magistrate Judge's conclusion “is

1 a factor to be weighed in considering the propriety of finding waiver of an issue on appeal.”
2 *Id.* (internal citations omitted).

3 Petitioner has filed no objections to the R&R (Doc. 17). The parties have not objected
4 to this recommendation, which relieves the Court of its obligation to review. *See United*
5 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.2003); *Thomas v. Arn*, 474 U.S. 140,
6 149, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985) (“[Section 636(b)(1)] does not ... require any
7 review at all ... of any issue that is not the subject of an objection.”); Fed.R.Civ.P. 72(b)(3)
8 (“The district judge must determine de novo any part of the magistrate judge's disposition
9 that has been properly objected to.”). This Court considers the R&R to be thorough and well-
10 reasoned. After a thorough and de novo review of the record, the Court will ADOPT the
11 R&R of Magistrate Judge Velasco (Doc. 17).

12 Accordingly,

13 **IT IS HEREBY ORDERED** that Magistrate Judge Velasco’s Report and
14 Recommendation (Doc. 17) is hereby **ACCEPTED** and **ADOPTED** as the findings of fact
15 and conclusions of law by this Court;
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17 **IT IS FURTHER ORDERED** Petitioner’s Petition for Writ of Habeas Corpus (Doc.
18 1) is **denied** without leave to amend, and this action is **dismissed with prejudice**, and the
19 Clerk should enter judgment and close this case.

20 DATED this 6th day of December, 2012.

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Raner C. Collins
United States District Judge